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**MARTIN & FERRARO, LLP**  
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**FACSIMILE TRANSMITTAL**

**TO:**

Name: Mail Stop AMENDMENT  
Group Art Unit 3772/Examiner M. Brown

Firm: U.S. Patent & Trademark Office

Fax No.: 571-273-8300

Subject: U.S. Patent Application No. 08/480,461

Gary K. Michelson

Filed: June 7, 1995

INSTRUMENTATION FOR THE SURGICAL

CORRECTION OF HUMAN THORACIC AND

LUMBAR SPINAL DISEASE FROM THE

LATERAL ASPECT OF THE SPINE

Attorney Docket No. 102.0010-01000

Customer No. 22882

Confirmation No.: 9274

**FROM:**

Name: Amedeo F. Ferraro, Esq.

Phone No.: 310-286-9800

No. of Pages (including this): 13

Date: March 30, 2007

Confirmation Copy to Follow: NO

**Message:**

**CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8**

I hereby certify that the attached Transmittal Form (in duplicate), and Reply to Office Action with Table 1 are being facsimile transmitted to the U.S. Patent and Trademark Office on March 30, 2007.

  
Sandra L. Blackmon

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FORM PTO-1083

MAR 30 2007

Attorney Docket No.: 102.0010-01000  
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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary K. Michelson, M.D.

Serial No: 08/480,461

Filed: June 7, 1995

For: INSTRUMENTATION FOR THE  
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Confirmation No.: 9274

Art Unit: 3772

Examiner: Michael Brown

Mail Stop AMENDMENT  
Commissioner for Patent  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

Transmitted herewith is a Reply to the Office Action of January 24, 2007 in the above-identified application.

- ☒ No additional fee is required.
- ☐ Applicant hereby requests a \*\*\*-month extension of time to respond to the above office action.
- ☐ The total amount of \$\*\*\* to cover the above fees to be charged to Deposit Account No. 50-3726.
- ☒ The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-3726. A copy of this sheet is enclosed.
- ☒ Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- ☒ Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,  
MARTIN & FERRARO, LLP

Date: March 30, 2007

By: Amedeo F. Ferraro  
Registration No. 37,1291557 Lake O'Pines Street, NE  
Hartville, Ohio 44632  
Telephone: 330-877-0700  
Facsimile: 330-877-2030

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ASPECT OF THE SPINE	)	

Mail Stop AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

**REPLY TO OFFICE ACTION**

In reply to the Office Action dated January 24, 2007, the following remarks are submitted:

The Examiner rejected claims 90, 95-241 based on undue multiplicity under 35 U.S.C. § 112, second paragraph. Applicant respectfully submits that the Examiner has already examined all the pending claims (except for dependent claim 241) at least twice and has previously allowed a majority of the independent claims and claims dependent therefrom. It is submitted that a multiplicity rejection is improper and should be withdrawn by the Examiner at least for the reasons set forth below.

**Prosecution History**

On June 7, 1995, this application was filed with claims 67-90 including four independent claims and 20 dependent claims. In the Office Action dated May 26, 1998, the Examiner indicated that claim 90 was allowed. On November 23, 1998, in response to the Office Action, Applicant canceled claims 67-89, amended claim 90 to correct minor informalities, and added new claims 95-140. On February 17, 1999, the

Reply to Office Action 3-30-07.doc